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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,920	10/06/2003	Steven J. Terrell	234-0002US	2909

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EXAMINER

VALENTI, ANDREA M

ART UNIT PAPER NUMBER

3643

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,920

Applicant(s)

TERRELL, STEVEN J.

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12,14,18-25,27-32,34-42,44,46,55-66,68,69,72 and 73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-12,14,18-20,22-24,27-32,34-42,44,46,55-66,68,69,72 and 73 is/are rejected.
- 7) ☒ Claim(s) 21 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 12, 14, 32, 42, 43, 55-57, 66, 68, 72, and 73 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,125,621 to Burch

Regarding Claims 1, 12, 14, 32, 42, 43, 55-57, 66, 68, 72, 73, teaches an apparatus for trimming and chemically (herbicide, Burch Col. 4 line 28) treating vegetation (Burch abstract first sentence), comprising: a plurality of parallel saw blades (Burch Fig. 27 #464) affixed along a saw arm (Burch #93 and 91) for trimming the vegetation; and a plurality of nozzles (Burch Fig. 17b #221 and 222) affixed to the saw arm for spraying a chemical treatment on vegetation in the proximity of the saw blades, wherein the plurality of nozzles direct the chemical treatment generally parallel with the saw blades (Burch Fig. 16 dash lines coming out of element #220), and wherein the chemical treatment is blocked in part by the saw blades (Burch Fig. 16 #212 diverts the flow of the treatment) so that some amount of the chemical treatment is sprayed onto the saw blades (Burch Col. 9 line 1-25); and a boom on a vehicle (Burch Fig. 1b) with a tank and a hose (Burch Fig. 16 #230).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 6-11, 18, 19, 20, 27-31, 34-41, 58-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,125,621 to Burch in view of U.S. Patent No. 5,501,257 to Hickman.

Regarding Claims 2, 3, 18, 19, 20, 27, 31, 34, 35, 58, 59, Burch teaches that the trimming and chemically treating principles can be applied to forestry applications (Burch Col. 9 line 43) and various configurations of for trimming trees (Burch Col. 4 line 54-63) and depicts the blades in a horizontal plane, but is silent on implicitly teaching placing the multiple parallel blades in a vertical orientation. However, Hickman teaches saw arm that enables positioning in multiple orientations (Hickman Fig. 2 and Fig. 11 #41). When positioned in a slightly vertical plane orientation as apposed to a horizontal plane of orientation taught by Burch, the saw blades inherently span above and below the saw arm and the plurality of nozzles will be formed on the top and bottom of the saw arm. It would have been obvious to one of ordinary skill in the art to modify the teachings of Burch with the teachings of Hickman at the time of the invention for the aerial and ease of maneuverability as taught by Hickman for more controlled trimming applications (Hickman Col.1 line 1-15) or for ease of trimming the vertical sides of hedges.

Regarding Claims 6, 36, and 60, Burch as modified teaches the apparatus is attachable to a boom (Hickman #21) along a first axis, and wherein the saw arm is rotatable around a second axis perpendicular to the first axis (Hickman Figs. 1 and 2).

Regarding Claims 7, 37, and 61, Burch as modified teaches the apparatus is attachable to a boom (Hickman #21) along a first axis, and wherein the apparatus is rotatable around the first axis (Hickman Figs. 1 and 2).

Regarding Claims 8, 38, and 62, Burch as modified teaches the apparatus is attachable to a boom (Hickman #21) along a first axis, and wherein the apparatus is bendable at an angle with respect to the first axis (Hickman Figs. 1 and 2).

Regarding Claims 9, 39, and 63, Burch as modified teaches the apparatus is attachable to a boom (Hickman #21) along a first axis, and wherein the saw arm is rotatable around a second axis perpendicular to the first axis, the apparatus is rotatable around the first axis, and the apparatus is bendable at an angle with respect to the first axis (Hickman Figs. 1 and 2).

Regarding Claims 10, 40, and 64, Burch as modified teaches the apparatus further comprises at least one jaw (Hickman #77) for grabbing the vegetation to be trimmed.

Regarding Claims 11, 41, and 65, Burch as modified is silent on the jaws being serrated. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely a notoriously well-known means of providing a strong friction grip to secure the object.

Regarding Claim 28, Burch as modified teaches at least one channel formed within the elongated arm to pass the chemical treatment to the sprayer assembly (Burch Fig. 19 the channel with the dash line in the center).

Regarding Claim 29, Burch as modified teaches the elongated arm comprises two pieces with the channel formed therein (Burch Fig. 19 #340 and 320).

Regarding Claim 30, Burch as modified is silent on the elongated arm is a single pieces of material and wherein the channel is milled there into. However, it would have been obvious to one of ordinary skill in the art to further modify the teachings of Burch at the time of the invention since the modification is merely making it integral to prevent from misplacing parts of the device and does not present a patentably distinct limitation.

Claim 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,125,621 to Burch.

Regarding Claim 69, Burch is silent on the herbicide comprises Krenite. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Burch at the time of the invention since the modification is merely a selection of a known herbicide for intended use selected to meet certain cost parameters, availability of products, or environmental regulations.

Claims 5, 22, 23, 24, and 46 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,125,621 to Burch in view of U.S. Patent No.

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5,501,257 to Hickman as applied to claims 1, 3, 4, and 32 above, and further in view of U.S. Patent No. 2,878,633 to Mullin.

Regarding Claims 5, 22, 23 and 46, Burch as modified is silent on the sprayer further includes at least one further nozzle formed perpendicularly to the plurality of nozzles. However, Mullin teaches a vegetation trimming and treating device with a perpendicular nozzle (Mullin #52 and 56). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Burch with the teachings of Mullin at the time of the invention since the modification is merely a duplication of a known element for a multiple effect for complete coverage of the treated vegetation. Burch as modified inherently teaches two second nozzles one fore each blade assembly (Burch Fig. 5a).

Regarding Claim 24, Burch as modified teaches that the saw blades appear on the same side of the elongated arm as do the second nozzles (Burch Fig. 5a and Mullin Fig. 1 #56).

Allowable Subject Matter

Claims 21 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1,3-12, 14, 18-20, 22-24, 27-32, 34-42, 44, 46, 55-66, 68, 69, 72 and 73 have been considered but are moot in view of the new ground(s) of rejection.

Both the teachings of Burch and the teachings of Hickman are in the same field of endeavor of cutting trees and there is sufficient motivation to combine the teachings of Burch in view of Hickman for the advantage of controlled aerial trimming. Examiner maintains that applicant has not patentably distinguished over the teachings of the cited prior art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,497,088.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

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about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Andrea M. Valenti
Patent Examiner
Art Unit 3643

17 May 2005